

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GABRIEL MCDANIELS,

Plaintiff,

v.

LAWRENCE HARDIN,

Defendant.

Case No. [18-cv-06251-EMC](#)

RELATED TO

Case No. [18-cv-06272-EMC](#)

Case No. [18-cv-06275-EMC](#)

GABRIEL MCDANIELS,

Plaintiff,

v.

ROBERT BEYERS,

Defendant.

**ORDER RE “FIRST AMENDED
CLAIM[;] NOTICE ADDRESSING ALL
CONCERN[ED] READY TO
PROCEED”**

Docket No. 12 (C-18-6251)

Docket No. 12 (C-18-6272)

Docket No. 12 (C-18-6275)

GABRIEL MCDANIELS,

Plaintiff,

v.

GLEN NAVIS,

Defendant.

The Court previously issued orders dismissing the complaints filed in Case Nos. C-18-6251 EMC, C-18-6272 EMC, and C-18-6275 EMC. The basis of the dismissal in each case was the same: lack of subject matter jurisdiction. Each dismissal was with prejudice.

On January 8, 2019, Mr. McDaniels filed a document captioned “First Amended Claim[;] notice addressing all concern[ed] ready to proceed.” Given Mr. McDaniels’s pro se status, the Court liberally construes the document as a motion for reconsideration. *See, e.g.*, Fed. R. Civ. P. 60(b)(1) (providing that a party may move for relief from a final judgment based on mistake,

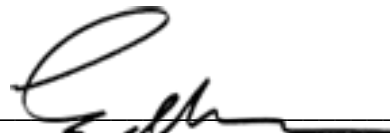
1 inadvertence, surprise, or excusable neglect); *Platforms Wireless Int’l Corp.*, 617 F.3d 1072, 1100
2 (9th Cir. 2010) (noting that “[r]econsideration under Rule 59(e) is appropriate ‘if (1) the district
3 court is presented with newly discovered evidence, (2) the district court committed clear error or
4 made an initial decision that was manifestly unjust, or (3) there is an intervening change in
5 controlling law’”).

6 Mr. McDaniels has failed to show that reconsideration is warranted. Moreover, even if the
7 Court were to reconsider, he has failed to show that there is subject matter jurisdiction. There is
8 no private right of action under 18 U.S.C. § 242. *See, e.g., Aldabe v. Aldabe*, 616 F.2d 1089, 1092
9 (9th Cir. 1980) (per curiam) (stating that 18 U.S.C. §§ 241 and 242 are “criminal provisions” that
10 “provide no basis for civil liability”); *Banuelos v. Gabler*, No. 1:18-cv-00675-LJO-SAB, 2018
11 U.S. Dist. LEXIS 85974, at *9 (E.D. Cal. May 21, 2018) (stating that “Plaintiff cannot bring a
12 civil suit for violation of these sections of Title 18 [including § 242] as they do not provide for a
13 private right of action.”); *Granier v. Ladd*, No. 5:14-cv-05372-EJD, 2015 U.S. Dist. LEXIS
14 130505, at *23 (N.D. Cal. Sep. 28, 2015) (noting that “all of Plaintiff’s claims assert the violation
15 of several criminal statutes under Title 18 of the U.S. Code [including § 242] and 42 U.S.C. §
16 1995, none of which provide for a private right of action”); *Rockefeller v. U.S. Court of Appeals*
17 *Office for Tenth Circuit Judges*, 248 F. Supp. 2d 17, 23 (D.D.C. 2003) (barring claims pursuant to
18 18 U.S.C. §§ 242 and 371 “because, as criminal statutes, they do not convey a private right of
19 action”). And even if there were a private right of action, it is difficult to see how § 242 could
20 apply to the instant case given the allegations in the complaints which refer to “trespass upon my
21 property” “by way of the use of a forged Instrument.”

22 Accordingly, Mr. McDaniels’s motions for relief in the cases are hereby **DENIED**. The
23 cases remain closed.

24 **IT IS SO ORDERED.**

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26 Dated: January 15, 2019

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EDWARD M. CHEN
United States District Judge